

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STATE FARM MUTUAL
AUTOMOBILE INSURANCE
COMPANY,

Plaintiff,

Case No. 2:16-cv-13040
District Judge Avern Cohn
Magistrate Judge Anthony P. Patti

v.

ELITE HEALTH CENTERS, INC.,
ELITE CHIROPRACTIC, P.C.,
ELITE REHABILITATION, INC.,
MIDWEST MEDICAL
ASSOCIATES, INC., PURE
REHABILITATION, INC., DEREK
L. BITTNER, D.C., P.C., MARK A.
RADOM, DEREK LAWRENCE
BITTNER, D.C., RYAN MATTHEW
LUKOWSKI, D.C., MICHAEL P.
DRAPLIN, D.C., NOEL H. UPFALL,
D.O., MARK J. JUSKA, M.D.,
SUPERIOR DIAGNOSTICS, INC.,
CHINTAN DESAI, M.D., MICHAEL
J. PALEY, M.D., DEARBORN
CENTER FOR PHYSICAL
THERAPY, L.L.C., MICHIGAN
CENTER FOR PHYSICAL
THERAPY, INC., and JAYSON
ROSETT

Defendants.

**ORDER DENYING DEFENDANT CHINTAN DESAI, M.D.'S LETTER
REQUEST TO FILE A MOTION TO STAY PROCEEDINGS (DE 512)**

This matter is before the Court for consideration of Defendant Chintan Desai, M.D.’s June 18, 2019 letter request for leave to file a motion to stay proceedings pending the Court’s disposition of Desai’s motion to dismiss on the grounds of res judicata (DE 512), and State Farm Mutual Automobile Insurance Company’s (State Farm’s) June 20, 2019 letter response in opposition (DE 515).

Desai states that he filed a motion to dismiss based on *res judicata* on June 14, 2019, arguing that State Farm’s claims against him are barred by the entry of an order dated April 1, 2016 in the case of *State Farm Mutual Automobile Insurance Co. v. Universal Health Group, Inc.*, No. 5:14-cv-10266, dismissing Horizon Imaging, LLC from that case. (DEs 507, 512.) Desai seeks to “stay proceedings” pending a ruling on that motion “to save tens of thousands of additional dollars in discovery-related fees and costs for all parties.” (DE 512.) State Farm opposes that request. (DE 515.)

Desai’s letter request is **DENIED** for several reasons. First, while recognizing that the court has “broad discretion and inherent power to stay discovery,” *Hahn v. Star Bank*, 190 F.3d 708, 719 (6th Cir. 1999), “[i]t is not the usual practice of this Court ... to order a stay of discovery solely on the ground that a defendant has filed a motion to dismiss.” *Porter v. Five Star Quality Care-MI, LLC*, No. 13-13855, 2014 WL 823418, at *2 (E.D. Mich. Mar. 3, 2014)

(collecting cases “recogniz[ing] that ‘[t]he mere filing of a dispositive motion ... does not warrant the issuance of a stay [of discovery] under Rule 26(c).’”).

Second, Desai is just one of a number of defendants in this matter, and accordingly his motion to dismiss “is not wholly dispositive of this case.” *See Porter*, 2014 WL 823418, at *2. Thus, State Farm would be entitled to proceed with its claims against the remaining defendants “no matter how the Court rules on [Desai’s] motion, and a stay of discovery would unduly delay this remaining portion of the litigation.” *Id.* (citing *Flagstar Bank, FSB v. Federal Ins. Co.*, No. 05-70950, 2006 WL 2311121, at *3 (E.D. Mich. Aug. 9, 2006) (because only one of the two defendants had filed a summary judgment motion, “a stay of discovery with respect to [this defendant] would likely delay the entire case”)). Further, even if, as Desai hopes, he is dismissed as a defendant in this matter, State Farm could (and by past history probably would) seek the same discovery from him as a nonparty, as it is likely to be relevant to State Farm’s claims in this case against the remaining defendants, at least to some extent.

Third, the complaint in this matter was filed almost three years ago, on August 22, 2016 (DE 1), discovery has been extensive and ongoing and is scheduled to close on August 30, 2019 (DE 410), and Desai has already filed one motion to dismiss, which was denied. (DEs 58, 76.) Desai fails to explain why his eleventh hour filing of the pending motion to dismiss, *based on an April 1, 2016*

order in a different case, necessitates a stay of discovery now, and why he did not file that motion at the inception of this case, or include that argument in his first motion to dismiss, if he desired to avoid expenses of litigation.

For all these reasons, Desai's letter request to file a motion to stay (DE 512) is **DENIED**.

IT IS SO ORDERED.

Dated: June 20, 2019

s/*Anthony P. Patti*

Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on June 20, 2019 electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the
Honorable Anthony P. Patti